**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO. 978 OF 2007**
**IN**
**(DRAFT) NOTICE OF MOTION NO. OF 2006**
**IN**
**NOTICE OF MOTION NO.3631 OF 2006**
**IN**
**NOTICE OF MOTION NO.1152 OF 2006**
**IN**
**COURT RECEIVER'S REPORT NO. 177 OF 2006**
**IN**
**SUIT NO. 940 OF 1998.**

1(A) Mohanlal L.Talreja and others. ... Plaintiffs.
Versus.
1. Sham Pundalik Dhumatkar and ors. ... Defendants.
and
Court Receiver, High Court, Bombay. ... Respondent.

Shri K.N.Kore for the Applicant/Deft.Nos.1 & 2.

Shri Sanjay Jain with Ramesh Jain for the Plaintiffs.

Shri D.J.Dhanuka for Defendant No.3.

**CORAM : ABHAY S.OKA, J.**

**DATED : 24th August, 2007.**

**P.C.:**

1. Heard the learned Counsel appearing for the 1st and 2nd Defendants in support of the Chamber Summons. The Chamber Summons is filed praying for extension of time to remove office objections and to restore Notices of Motion taken out by the 1st and 2nd Defendants which are dismissed as a consequence of order dated 18th June 2007.

2. The learned Counsel appearing for the Plaintiffs has opposed the Chamber Summons by pointing out that Notice of Motion No.3631 of 2006 taken out by the Plaintiffs is pending in which a prayer has been made

for striking out the defence of the 1st and 2nd Defendants. He submitted that the Chamber Summons taken out by the 1st and 2nd Defendants cannot be heard unless the Notice of Motion No.3631 of 2006 is heard and disposed of. He submitted that in any event, in the affidavit-in-support of the Chamber Summons, no explanation has been given by the 1st and 2nd Defendants for extending time to remove office objections.

3. I have considered the submissions. By order dated 18th June 2007 passed in Notice of Motion No.1152 of 2007, time was granted to the 1st and 2nd Defendants to remove office objections in another Notice of Motion filed by them on 18th December 2006 for setting aside order dated 24th November 2006 passed by this Court on the Receiver’s Report. This Court directed that if the objections in the said fresh Notice of Motion were not removed within one week, the said draft Notice of Motion as well as the Notice of Motion No.1152 of 2007 will stand dismissed.

4. Admittedly there was no objection raised in Notice of Motion No.1152 of 2007. As the 1st and 2nd Defendants failed to remove the office objections in the draft Notice of Motion, both the Notices of Motion stand dismissed as per the conditional order dated 18th June 2007 passed by this Court. In view of what is asserted in paragraph 3 to 5 of the affidavit-in-support of the

Chamber Summons, time granted to the 1st and 2nd Defendants to remove office objections deserves to be extended. The Notice of Motion taken out by the 1st and 2nd Defendants has been dismissed on technical ground of non-removal of office objections. The Chamber Summons cannot be postponed only on the ground that the other Notice of Motion taken out by the Plaintiffs for striking out defence is still pending. The order passed in this Chamber Summons will not affect the merits of the said Notice of Motion No.3631 of 2006.

5. Hence Chamber Summons is disposed of by passing the following order:

(i) Conditional order dated 18th June 2007 passed by this Court is hereby set aside subject to condition that the 1st and 2nd Defendants will remove all office objections in the draft Notice of Motion within a period of two weeks from today. No further extension will be granted.

(ii) It is made clear that if office objections are not removed within the time granted as aforesaid, the order dated 18th June 2007 will stand and continue to operate.

(iii) Parties to act on an authenticated copy of this order.

Judge.